



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Deval L. Patrick
GOVERNOR

Timothy P. Murray
LIEUTENANT GOVERNOR

Ian A. Bowles
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1181
<http://www.mass.gov/envir>

October 3, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
EXPANDED ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : The Merano
PROJECT MUNICIPALITY : Boston
PROJECT WATERSHED : Boston Harbor
EEA NUMBER : 14304
PROJECT PROPONENT : **Boston Development Group**
DATE NOTICED IN MONITOR : August 27, 2008

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62I) and Section 11.11 of the MEPA Regulations (301 CMR 11.00), I have reviewed the Expanded Environmental Notification Form (EENF) for this project and hereby determine that it **does not require** further MEPA review. In a separate Draft Record of Decision (DROD) also issued today, I have proposed to grant a Waiver from the requirement to prepare a Mandatory Environmental Impact Report (EIR).

Project Description

As described in the EENF, the project consists of the design and construction of a 463,000 square foot (sf) mixed use development in Boston, MA. The project includes approximately 190,000 sf of hotel uses (short-term and long-term), 206,000 sf of office space, 10,000 sf of retail and 13,000 sf of restaurant space. It will include a parking garage on the second floor that will provide 203 spaces (93 double stacked and 17 single). The project requires demolition of a one-story commercial building at 88 North Washington Street.

The project site includes Parcel 1B, Parcel 1C and 86-88 Washington Street. Parcel 1B was created by the demolition of the elevated I-93 highway structures and is owned by the Massachusetts Turnpike Authority (MTA). The proponent was designated as the developer of this parcel by the MTA following a public Request for Proposal process that included public presentations and meetings. The proponent will lease the property from MTA through a ground lease. Parcel 1C and 86-88 Washington Street are owned or will be owned by the proponent.

The 1.26-acre site is bounded by Causeway Street, Beverly Street, Valenti Way, North Washington Street and buildings along Medford Street, including 239 Causeway Street and 98 North Washington Street. It is in close proximity to the Massachusetts Bay Transportation Authority (MBTA) Green Line and Orange Line and the commuter rail at North Station. The parcel, which is located over MTA tunnels, is vacant with the exception of an area used for surface parking. It is located on landlocked tidelands approximately 415 feet from the shoreline of Boston Inner Harbor and within the City of Boston Groundwater Conservation Overlay District. The site is located immediately adjacent to the Causeway/North Washington Street District, which is eligible for listing on the National Register of Historic Places. It is located in the vicinity of the Bulfinch Triangle District, which is listed in the State and National Registers of Historic Places and in the vicinity of the North End Area, an area included in the Inventory of Historic and Archaeological Assets of the Commonwealth.

Permitting/Jurisdiction

The project is undergoing MEPA review and subject to preparation of a Mandatory EIR pursuant to 11.03 (6)(a)(6) because it requires a state permit and will generate 3,000 or more new average daily traffic (adt) on roadways providing access to a single location. The project requires a Sewer Connection Permit from the Massachusetts Department of Environmental Protection (MassDEP), a long-term ground lease from the MTA and review by the Massachusetts Historical Commission (MHC). The project may require authorization from the Executive Office of Transportation and Public Works (EOTPW) for use of former railroad right of way (ROW). The project is subject to the MEPA Greenhouse Gas Emissions Policy and Protocol and will require a Public Benefits Determination for use of landlocked tidelands. Also, it requires a Sewer Use Discharge Permit and Construction Dewatering Permit from the Massachusetts Water Resources Authority (MWRA).

The project is subject to Article 80 Large Project Review by the Boston Redevelopment Authority (BRA) pursuant to Article 80 of the Boston Zoning Code. The BRA issued a decision on the Project Notification Form (PNF) on September 23, 2008 indicating that no further review was required. In addition, it requires multiple permits and reviews by the City of Boston including development and review of a Construction Management Plan and a Transportation and Access Plan Agreement by the Boston Transportation Department (BTD). The project will require zoning relief including relief for dimensions and setback requirements as well as the proposed hotel and parking.

Because the proponent is seeking a land transfer, in the form of a ground lease, MEPA jurisdiction extends to those aspects of the project within the area subject to the land transfer that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA

regulations. Pursuant to 301 CMR 11.01(2)(a)(3), MEPA subject matter jurisdiction is functionally equivalent to full scope jurisdiction.

Potential Environmental Impacts

Potential environmental impacts associated with the project include the generation of approximately 7,294 unadjusted average daily vehicle trips (adt), use of 63,701 gallons per day (gpd) of water, generation of 57,910 gpd of wastewater and non-water dependent use of landlocked tidelands. Re-development of this site that is located in close proximity to transit will minimize overall impacts. Effort to avoid, minimize and mitigate project impacts include design and construction of a building that is certifiable by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) as required by Article 37 of the Boston Zoning Code, implementation of a Transportation Demand Management (TDM) Program, provision of a limited parking supply to minimize vehicle trips, provision of sidewalks and lighting to create safe pedestrian access, a \$12,000 contribution to the Bulfinch Triangle Streetscape Improvements Initiative, a \$300,000 contribution (or equivalent work) to the Crossroads Initiative and a \$50,000 contribution toward the Bulfinch Triangle Traffic Study.

Waiver Request

The proponent has requested a Waiver of the requirement to prepare an EIR. An EENF was submitted in conjunction with this request and it was subject to an extended comment period as required. The EENF identifies the environmental impacts of the project and describes measures to be undertaken by the proponents to avoid, minimize and mitigate project impacts. The Waiver request was discussed at the scoping session for the project which was held on September 10, 2008.

Review of the EENF

The EENF provides a detailed project description and plans that provide a clear understanding of the proposed project within its context. The EENF identifies the potential environmental impacts of the project and describes measures to be undertaken by the proponent to avoid, minimize and mitigate project impacts. The EENF includes a traffic study, air quality analysis, greenhouse gas analysis and identification of impacts to historic resources.

The EENF and comments from Downtown North Association (DNA) identify the extensive amount of land use, urban design and transportation studies conducted within the Bulfinch Triangle over the past decade. The North Area Planning Initiative and the Bulfinch Triangle Design and Development Guidelines emerged from these studies and articulate a comprehensive vision for urban design and development. Comments from DNA indicate that the project has involved substantive and continuing community participation, through the Bulfinch Triangle Community Advisory Committee (BTCAC), in the developer selection and ongoing permitting processes that were based on those guidelines. Comments from DNA and the Bulfinch Triangle Community Advisory Committee (BTCAC) indicate support for the Waiver.

Transportation

As noted previously, trip generation is estimated at over 3,000 adt based on the ITE Trip Generation Manual. According to the EENF, the project will generate 7,294 unadjusted average daily vehicle trips (adt). Use of BTM mode shares to adjust this estimate results in approximately 2,044 adt. This estimate is lower than the mandatory EIR threshold of 3,000 adt.

The EENF describes measures to reduce transportation related impacts and identifies a TDM Program to minimize trips. The TDM Program includes limited parking, designating a transportation coordinator, providing orientation packets to residents regarding transit options, and bicycle racks for at least 23 bikes. The EENF indicates that the overall parking ratio associated with the project is .44 per 1,000 sf of program area. Also, the project may include a partnership with a car sharing service. These efforts will leverage the range of transportation resources available in the district and the relatively low parking ratio increases the likelihood that residents will use transit.

In addition, the project will contribute \$300,000 or perform a comparable amount of work, to the Boston Crossroads Initiative. This City initiative was developed to redesign and revitalize the roads that cross the Rose Fitzgerald Kennedy Greenway and connect people to neighborhoods and destinations on either side. These funds will be targeted towards improvements to Causeway Street that will extend from Lomansey Way/Merrimack Street to Prince Street. Also, the project will contribute \$12,000 to the Bulfinch Triangle Streetscape Improvements Initiative and will contribute \$50,000 towards the Bulfinch Triangle Traffic Study.

Historic and Cultural Resources

As part of the environmental planning and “joint development” process of the CA/T Project, the MHC, as State Historic Preservation Officer, must review and approve the design of development parcels in compliance with the Central Artery Memorandum of Agreement (MOA), pursuant to Section 106 of the National Historic Preservation Act (36 CFR 800). Under the terms of the Section 106 MOA, the MHC, in consultation with the Boston Landmarks Commission (BLC), must review and approve the new design of any new construction on any of the air rights parcels to ensure they meet established guidelines that include height limits, design issues, massing, materials, siting and setback requirements.

The project will exceed the 100-foot maximum height identified in the Joint Development Guidelines (JDG). The EENF indicates that the proponent considered limiting the project height to 100 feet and to 149 feet; however, available floor area is limited existing utilities and the setback required to provide adequate fire separation as well as adequate light and ventilation to rear elevations of 6-24 Medford Street and 90 North Washington. In addition, massing of the building is designed to minimize the visibility of the new construction from within the Causeway/North Washington Street District. The EENF indicates that these constraints present a significant limitation on usable space and would render the project financially infeasible. Efforts to minimize impacts include creation of a plaza at Beverly Street and Causeway Street by setting the first floor back at this corner; aligning the façade with the façade of 239 Causeway Street; lowering of the office portion of the project at the corner of Valenti Way and North Washington Street to bring it to the same height as 90 North Washington

Street; and relocation of the garage ramp to Valenti Way and the office and retail loading toward the porte cochere.

Comments received from MHC note that the proposed buildings exceed the height limits established by the JDG and indicate that the project will have an adverse effect on the Bulfinch Triangle and Causeway/North Washington Street historic districts through the introduction of visual elements that are out of character with and alter the setting of these historic districts. MHC comments request consideration of design alternatives for the proposed height and massing. To address MHC concerns, the proponent will be required to consult with MHC regarding alternatives as a condition of the DROD. In addition, the proponent will be required to provide more detailed elevation drawings that depict proposed materials and sketches or more detailed descriptions of the proposed fenestration reveals as well as depths/dimensions of other applied or structural exterior details.

Greenhouse Gas Emissions

The Climate Protection and Green Economy Act, signed into law on August 7, is a clear indication that the Commonwealth understands the risks posed by global warming and is committed to ensuring that Massachusetts does its part to reduce its greenhouse gas emissions. This law will require that the Commonwealth quantify all sources of GHG emissions and take effective steps to minimize contributions from each sector. Prior to the Act, the MEPA Greenhouse Gas Emissions Policy and Protocol was established to require proponents to analyze GHG emissions associated with the project and identify measures to avoid, minimize and mitigate emissions. This project is subject to the Policy and the EENF includes a GHG analysis that calculates total carbon dioxide (CO₂) emissions by adding transportation emissions with direct and indirect stationary emissions (from on-site sources and energy use). As required, it calculates and compares GHG emissions associated with the following alternatives: 1) a code-compliant baseline (Code Baseline), 2) the preferred alternative (Enhanced Design Alternative) and project alternatives with greater GHG emissions-related mitigation than the preferred alternative (LEED GHG Mitigation). Stationary source emissions were developed using the TRACE[®] 700V6 model and modeling assumptions for each alternative are identified in the EENF. Transportation emissions were developed based on the mesoscale study area and the MOBILE 6.2 emission model.

Based on its analysis, the EENF indicates that the proponent will implement the LEED GHG Mitigation alternative to obtain greater emissions reductions. These measures include compliance with Article 37 of the Boston Zoning Code by constructing a LEED Certifiable building. Sustainable design elements include the redevelopment of an existing site in close proximity to transit, a low parking ratio, a TDM program including bike storage, incorporation of low albedo roofing or a green roof, high efficiency HVAC systems, daylighting, energy efficient lighting, refrigerants with a low global warming potential, dedicated space for recycling infrastructure, use of construction materials with recycled content, use of regionally manufactured construction materials, re-use of stormwater for irrigation and water conservation. In addition, the EENF indicates that the proponent is considering incorporation of on-site renewable energy and cogeneration to provide more efficient heating, cooling and electrical supply.

The EENF indicates that proposed mitigation will reduce direct and indirect stationary sources from a baseline of 673 tpy to 584 tpy for a reduction of 89 tons per year (tpy), or a 13% reduction. It estimates that transportation related emissions will increase from 12,158 tpy for the 2012 No-Build to 12,337 tpy for the the 2012 Build for an increase of 179.1 tpy. It does not identify reductions associated with the project's proposed TDM program.

MassDEP comments, which incorporate comments from the Division of Energy Resources (DOER) identify the significant measures the proponent is committed to while noting that there are several opportunities available to further reduce GHG emissions including: third party building commissioning to ensure the commissioning process is thorough and energy performance of the building is consistent with the energy modeling and the equipment specifications; monitoring of building energy management systems; use of roof and wall insulation with the maximum R-value possible; consideration of solar PV or solar thermal; an enhanced rainwater harvesting system; and consideration of other measures to minimize water demand. In addition, MassDEP requests that the proponent conduct a life-cycle cost analysis to evaluate the installation of a PV system during project construction under two scenarios: 1) construction, ownership and operation of a PV system by the building owner; or 2) construction, ownership, and operation of a PV system by a third party that will then enter into a long-term power purchase agreement with the building owner for the electricity produced by the system. MassDEP comments identify additional information that should be provided for the GHG analysis including the type of exterior and interior lighting for each building, what "enhanced" commissioning consists of, identification of the R-value of proposed roof and wall insulation, water savings associated with the rainwater harvesting and an analysis of the GHG reductions associated with materials management.

While I commend the proponent for committing to the sustainable design elements listed above, I agree with MassDEP and DOER that the proponent could further reduce its GHG emissions. As a condition of the DROD, I am requiring the proponent to provide additional details regarding its GHG analysis for review by commentors. The proponent should evaluate all of the measures identified in the MassDEP comment letter, provide additional information regarding the feasibility of a cogeneration system and provide a life cycle cost analysis for a PV system. In addition, the proponent should consider the reductions associated with the provision of significant transit subsidies to employees and/or operating subsidies for water transportation. I strongly encourage the proponent to consider adoption of additional mitigation measures based on the results of this supplemental analysis. I note that the MassDEP comment letter identified resources available to support this analysis and the feasibility of certain mitigation measures. In addition, I encourage the proponent to meet with EEA staff to discuss the development of this analysis and potential mitigation measures.

Wastewater

The project will generate approximately 57,910 gpd of wastewater. The ENF indicates that there is sufficient capacity in the existing collection system to accommodate the estimated wastewater flow. Wastewater generated by the project will discharge into the Boston Water and Sewer Commission (BWSC) sewer system, which flows into the Massachusetts Water Resources Authority (MWRA) system and ultimately to the Deer Island Wastewater Treatment Facility for treatment and discharge.

Comments from the Massachusetts Water Resources Authority (MWRA), MassDEP and Boston Water and Sewer Commission (BWSC) note that the proponent should participate in efforts to remove extraneous clean water (Infiltration/Inflow (I/I)) from the sewer system on a 4:1 basis for a total of 235,640 gpd. The Draft Record of Decision (DROD) includes a condition that the proponent will offset I/I on a 4:1 basis. These comments also indicate that the proponent should consult with the Boston Water and Sewer Commission (BWSC) and the MWRA to ensure the project does not interfere with the Bulfinch Triangle Sewer Separation project.

Landlocked Tidelands

The project is proposed on landlocked tidelands and subject to the provisions of *An Act Relative to Licensing Requirements for Certain Tidelands* (2007 Mass. Acts ch. 168). Consistent with Section 8 of this legislation, I must conduct a Public Benefits Review as part of the EIR review of projects located on landlocked tidelands that entail a new use or modification of an existing use. Accordingly, I will make a Public Benefits Determination within 30 days of the issuance of the Final Record of Decision (FROD) or, in the event the Waiver is not granted, within 30 days of the issuance of the Certificate on the Final EIR.

Section 3 of this legislation requires that any project that is subject to MEPA review and proposes a new use or structure or modification of an existing use or structure within landlocked tidelands address the project's impacts on tidelands and groundwater within the ENF. It indicates that the ENF "*shall include an explanation of the project's impact on the public's right to access, use and enjoy tidelands that are protected by chapter 91, and identify measures to avoid, minimize or mitigate any adverse impacts on such rights set forth herein.*" If a project is located in an area where low groundwater levels have been identified by a municipality or by a state or federal agency as a threat to building foundations, the ENF "*shall also include an explanation of the project's impacts on groundwater levels, and identification and commitment to taking measures to avoid, minimize, or mitigate any adverse impacts on groundwater levels.*" The legislation notes that these provisions also apply to the filing of an EIR if an EIR is required.

The EENF submitted on this project addresses the project's impacts on the public's right to use landlocked tidelands and on groundwater levels. It indicates that the project will not interfere with access to the waterfront or to open space. The project will provide adequate pedestrian access around and through the site and will improve access to the Charles River and Boston Harbor through creation of continuous streetwalls along Causeway Street, Beverly Street and Valenti Way and investment in the Boston Crossroads Initiative. The building will include two hotels and active ground-level uses including retail and restaurant uses, all of which will be open to the public.

Because the project consists of construction over highway tunnels, its impact on groundwater will be minimal. The DROD includes a condition that the proponent must certify that the project will not negatively impact groundwater levels on the site or on adjacent lots consistent with Article 32, Section 6 of the Boston Zoning Code. Comments from the Boston Groundwater Trust provided to the BRA (dated July 23, 2008) do not identify any significant concerns with impact of the project on groundwater levels.

Comments from MassDEP indicate that the combination of public interior uses, pedestrian and visual connections, and open space improvements could serve to attract the public to and through the site and along the waterfront and that these improvements strengthen the pedestrian link between the Charles River and the Rose Kennedy Greenway. MassDEP supports the creation of a plaza at the Causeway Street/Beverly Street corridor. Although MassDEP supports the proposed seasonal outdoor dining and plantings, they note that the sidewalk must be wide enough to provide these amenities without hampering pedestrian access. In addition, these comments suggest that the TDM Program should include water transportation amongst the marketing and transit subsidies being offered. Water taxis use the dock at the base of Lovejoy Wharf, and when the wharf is redeveloped, the proponent could provide operating subsidies to support reactivation of regular water transportation service to other points in the harbor.

I note that the Walk Boston comment letter identifies potential concerns with the project design and its impact on pedestrian access and safety. I understand that efforts are ongoing to address vehicular and pedestrian issues related to development within the Bulfinch Triangle. I encourage the proponent to consult with Walk Boston and the City of Boston, and other area developers, regarding issues identified in this comment letter (and the MassDEP letter) to ensure that the project will provide adequate pedestrian access and safety.

Conclusion

Based on a review of the information provided by the Proponent and after consultation with the relevant public agencies, I find that the potential impacts of this project do not warrant further MEPA review. Outstanding issues may be addressed during the permitting process.

I have also issued a Draft Record of Decision (DROD) today proposing to grant a Waiver from the requirement to prepare an EIR for the project. The DROD will be published in the October 8, 2008 Environmental Monitor in accordance with 301 CMR 11.15(2), which begins the public comment period. The public comment period lasts for 14 days and will end on October 22, 2008. Based on written comments received on the DROD, I shall issue a Final Record of Decision or a Scope within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6).

October 3, 2008

Date



Ian A. Bowles

Comments received:

9/26/08 Department of Environmental Protection/Northeast Regional Office (MassDEP
NERO)
9/16/08 Massachusetts Historical Commission (MHC)
9/26/08 Massachusetts Water Resources Authority (MWRA)
9/26/08 Boston Water and Sewer Commission
City of Boston Environment Department
9/15/08 Downtown North Association
9/15/08 **Bulfinch Triangle Community Advisory Committee**
9/26/08 Walk Boston

IAB/CDB/cdb